

OLC 79-1449/5
7 June 1979

STATINTL

MEMORANDUM FOR: [REDACTED] OGC/DCI
OS/SAG/DDA
, PCS/LOC/DDO

STATINTL

FROM: [REDACTED]
Associate Legislative Counsel

SUBJECT : Memorandum of Understanding and Secrecy Agreement for
Agency Support to House Committee on Standards of
Official Conduct Inquiries

1. Based on your advice and counsel, the attached versions of the MOU and Secrecy Agreement have been negotiated with the Special Counsel, House Committee on Standards of Official Conduct. Please coordinate a final review within your component, preparatory to forwarding to the DCI for signature.

2. In addition to summarizing the more important provisions of each for the DCI, I will point out the following:

a. The MOU establishes no date for the return of any Agency material which is released, since the Committee may retain it until "the close of the inquiry, or any subsequent investigation resulting therefrom".

b. The MOU is silent on security controls for depositions since the Committee staff members are not empowered to depose.

c. There is an informal understanding with the Special Counsel that, if challenged, our reasons for withholding any material on the basis of irrelevancy will be explained to the Chairman in camera.

[REDACTED]

STATINTL

Attachments:
As stated

OS 9 1470

MEMORANDUM OF UNDERSTANDING
BETWEEN THE DIRECTOR OF CENTRAL INTELLIGENCE
AND THE HOUSE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

1. The Director of Central Intelligence (DCI) and the Chairman and the Ranking Minority Member of the House Committee on Standards of Official Conduct (Committee) are prepared to cooperate fully in the inquiries, and any investigation resulting therefrom, being conducted by the Committee regarding [REDACTED]

Access to CIA Information and Personnel

2. The DCI will, when requested, provide access to that classified information originated by the Central Intelligence Agency (CIA) which is relevant to the Committee's mandate. In order to fulfill the DCI's responsibility to protect intelligence sources and methods, such information will be appropriately sanitized, including excising as may be necessary, to assure protection of intelligence sources and methods. The Committee will be notified of any relevant material in the possession of, but not originated by, CIA and provided with the name of the proper authority to contact to obtain access to the material.

3. All Committee requests for documentary information will be in writing, signed by the Chairman, Ranking Minority Member or Special Counsel. In the interest of timely responses, preliminary telephone or other oral requests will be accepted, but no information will be made available until a written request is received. Committee requests for information will be directed exclusively to the Chief, Congressional Liaison Division, Office of Legislative Counsel.

4. Access by Committee personnel to any material or information which has been designated for protection from unauthorized disclosure by the Director of Central Intelligence will be limited to eight designated persons and will be granted only on the basis of the standards set out in Director of Central Intelligence Directive (DCID) 1/14. Prior to being granted such access, each of the designated Committee employees will execute a secrecy agreement which is acceptable to the Chairman, the Ranking Minority Member and the DCI, a copy of which will be provided to the DCI.

5. CIA documentary information to which the DCI grants access will normally be made available only on CIA premises. This documentary information will be distributed by a CIA representative upon the arrival of Committee personnel, and will be collected by the CIA representative prior to the departure of Committee personnel. No CIA documentary information may be removed from CIA premises or copied by Committee personnel, except as otherwise provided in paragraph 7 below.

6. Notes may be taken by Committee personnel in the course of reviewing CIA documentary information. All notes so taken are subject to review and sanitization by CIA. The original notes will remain in the custody of CIA, with sanitized and appropriately classified copies of the notes prepared by CIA for transmittal to the Committee.

7. Requests for the removal and storage of classified material, other than copies of notes, will be considered by the DCI on a case-by-case basis. Classified material which is removed will not be reproduced.

8. Copies of sanitized notes, and such other classified material as may be approved by the DCI for removal from CIA premises, may be stored during the inquiries at a location designated by the Committee, provided the storage facility and the access and control procedures are approved by the DCI.

9. Committee procedures for access, control or storage of any classified CIA material or copies of sanitized notes which Committee personnel may remove from CIA premises, or classified Committee materials generated from them, will be in accordance with security standards established and approved by the DCI. The Committee accepts full responsibility for the proper protection and control of all such material and all discussions based on such materials, in accordance with security standards established by the DCI, while such materials are in the custody of the Committee.

10. At the close of the inquiry, or any subsequent investigation resulting therefrom, all CIA material, copies of classified notes, or other classified material generated by the Committee from information furnished by CIA will be transferred to the custody of CIA.

11. Current CIA employees will not be interviewed in connection with these inquiries without the prior knowledge and consent of the DCI or his representative. Interviews of current CIA employees will be conducted only on CIA premises or otherwise as the DCI may authorize. The record of each such interview shall be reduced to writing and will be subject to sanitization by CIA to remove any reference to intelligence sources and methods before the Committee takes permanent custody of the final record. A copy of each such final record shall be made available to the DCI. All copies of preliminary notes and transcription tapes or other recording media made at the time of the interview will be held by CIA until the close of the inquiry or investigation, at which time they will be destroyed.

12. In view of the fact that certain ex-employees would be placed in jeopardy by sudden and unexpected disclosure of their past CIA affiliation, the Committee will give the DCI an opportunity to advise

it concerning the circumstances of each ex-employee the Committee may wish to interview, before contacting the ex-employee. The DCI's representative will make a good faith effort to locate and notify ex-employees of the CIA who may become involved in the Committee's inquiry. As in the case of interviews of current CIA employees, Committee personnel will reduce the record of each interview of an ex-employee of CIA to writing and make that record available for CIA review and sanitization of any reference to intelligence sources and methods prior to the Committee taking permanent custody of the final record. A copy of each such final record shall be made available to the DCI. All copies of preliminary notes or transcription tapes, or other recording media made during any interview of an ex-employee, from which the written record of such interview is derived, will be submitted to CIA representatives by Committee personnel. CIA will hold these data until the close of the inquiry, or any resulting investigation, at which time they will be destroyed.

13. Prior to any appearance before or interview with any current employee or ex-employee of CIA by the Committee or Committee personnel, the DCI reserves the right to contact the employee or ex-employee in order to advise the employee or ex-employee concerning the applicability of his or her secrecy agreement in the circumstance, and give instruction concerning the scope of information which the employee or ex-employee is authorized to divulge in the course of such a proceeding.

Public Disclosure of CIA Information

14. If at any time the Committee determines that it wishes to make public any information furnished by the DCI pursuant to this Memorandum of Understanding the Chairman will notify the DCI of this fact in writing. If the DCI does not make a written response within ten working days, the Committee may proceed with such disclosure. If the DCI responds in writing within ten working days, indicating he objects to such public disclosure, the DCI and the Committee will each appoint one representative to meet and attempt to resolve these differences. If these representatives are unable to resolve all points at issue, those remaining points will be taken up by the Chairman, the Ranking Minority Member, and the DCI for resolution. If issues still remain following the discussion between the Chairman, the Ranking Minority Member, and the DCI, the Chairman shall notify the President of the information which the Committee wishes to publicly disclose. The Committee may disclose publicly such information after the expiration of a period of ten working days following the notification to the President unless, prior to the expiration of such ten-day period, the President, personally, in writing, notifies the Committee that he objects to the disclosure of such information, provides his reasons therefore, and certifies that the

threat to the national interests of the United States posed by such disclosure is of such gravity that it outweighs any public interest served by the disclosure. If the President, personally, in writing, notifies the Committee of his objections to the disclosure of such information as provided herein, the Committee shall not publicly disclose such information without leave of the House of Representatives.

15. If at any time Committee personnel submit to the Chairman, pursuant to the terms of their secrecy agreement, material which is intended for publication, the Chairman will consult the DCI for a recommendation concerning the release of information which constitutes or is based upon data to which the DCI has granted access.

16. If at any time Committee personnel are called upon by Judicial or Legislative authorities to testify about or provide information which they have agreed not to disclose pursuant to their Secrecy Agreement, the Chairman will so notify the DCI or his representative.

Condition for Suspension of Access

17. Any disclosure of information in violation of this Memorandum of Understanding may result in the suspension of further access to CIA documentary information or current CIA employees by Committee personnel.

Director of Central Intelligence

Date

Chairman, House Committee on
Standards of Official Conduct
Subcommittee

Date

Ranking Minority Member, House
Committee on Standards of
Official Conduct Subcommittee

Date

SECRECY AGREEMENT

1. I, _____, (print full name) hereby agree to accept, as a prior condition of my being provided access to the intelligence and investigative files of the Central Intelligence Agency, or information relating thereto, the obligations contained in this Agreement.

2. I understand that in the course of my employment or other service with the House Committee on Standards of Official Conduct (hereinafter "Committee") I may be granted access by the Director of Central Intelligence (DCI) to information which is classified in accordance with the standards set forth in Executive Order 12065, as amended or superseded, including information which constitutes intelligence sources or methods. I accept that by being granted access to such information I will be placed in a position of special confidence and trust and become obligated to protect the information from unauthorized disclosure.

3. In consideration for being granted such access, I hereby agree that I will never divulge in any form or any manner any information which is classified pursuant to Executive Order which I have obtained in the course of my employment or other service with the Committee to any person other than a Member of the Committee or a Committee staff person authorized by the DCI to receive it, except as provided in paragraph 6 herein. I understand that the burden will be upon me to learn whether information or materials within my control are considered by the DCI to be classified, and who the DCI has authorized to receive such information or materials.

4. I hereby agree to submit to the Chairman of the House Committee on Standards of Official Conduct, all information or materials, including works of fiction, containing any mention of intelligence data, activities, or any other data which may be based upon information classified pursuant to Executive Order, prior to disclosing such information or material to anyone who is not authorized to have access to such classified information. I understand that the purpose of submitting said information or materials is to give the Chairman an opportunity to consult with the DCI, or the DCI's representative, to determine whether the information or materials contain any classified information which I have obtained pursuant to this Agreement. I agree that I will not take any steps toward public disclosure until I have received written permission to do so from the Chairman and from the DCI.

5. I further understand that all classified information or materials which I may acquire in the course of my employment or other service with the Committee will remain the property of the United States Government. I agree to surrender all such information or materials which may have come into my possession, or for which I am responsible because of my employment or other service with the Committee, upon demand of the Chairman, upon the demand of the DCI with the approval of the Chairman, or upon the conclusion of my employment or other service with the Committee.

6. I hereby agree to notify the Chairman in the event I am called upon by judicial or legislative authorities to testify about or provide information which I have agreed herein not to disclose. I will request that my obligation to testify be clearly established before I disclose such information.

7. I hereby agree to provide at all times the required degree of protection for information and materials which come into my possession pursuant to this Agreement.

8. I understand that any violation of the terms of this Agreement by me may result in the termination of my access to information provided by the DCI. I also understand that, if I violate the terms of this Agreement, the United States Government may institute a civil proceeding to seek compensatory damages or other appropriate relief. Further, I understand that the unauthorized disclosure of classified information can, in some circumstances, constitute a criminal offense.

9. In addition to any other remedy to which the United States Government may become entitled, I hereby assign to the United States Government all rights, title, and interest in any and all royalties, remunerations, and emoluments resulting from any divulgence, publication or revelation of information by me which is prohibited from disclosure by the terms of this Agreement.

10. I understand that the United States Government may, prior to any unauthorized disclosure which is threatened by me, choose to apply to any appropriate court for an order enforcing this Agreement. Nothing in this Agreement constitutes a waiver on the part of the United States to institute a civil or criminal proceeding for any breach of this Agreement by me. Nothing in this Agreement constitutes a waiver on my part of any possible defenses I may have in connection with either civil or criminal proceedings which may be brought against me. Nothing in this Agreement limits in any way any of the legal rights, responsibilities, or privileges which may exist for either party under the Constitution or laws of the United States.

11. I understand and accept that, unless I am provided a written release from this Agreement or any portion of it by the Chairman, with concurrence therein by the DCI or the DCI's representative, all the conditions and obligations accepted by me in this Agreement apply both during my employment, or other service with the Committee, and at all times thereafter.

12. I understand that the purpose of this Agreement, including those provisions intended to prohibit the unauthorized disclosure of information classified pursuant to Executive Order, is to implement the responsibilities of the DCI, particularly those specified in the National Security Act of 1947.

13. In any civil action which may be brought by the United States Government for breach of this Agreement, I understand that the law of the Commonwealth of Virginia shall govern the interpretation of this Agreement.

14. Each provision of this Agreement is severable. If a court should find any provision of this Agreement to be unenforceable, I understand that all other provisions of the Agreement shall remain in full force.

15. I make this Agreement in good faith, and with no purpose of evasion.

Signature

Date

WITNESS:

Signature

Printed Name

Date

Page Denied